

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK**

In Re: ROGER L. KEIFER

**Case No.: 14-61211
Chapter 13**

Debtor.

**RESPONSE TO MOTION FOR RELIEF FROM THE
AUTOMATIC STAY**

Richard Croak, attorney for Debtor herein, hereby responds to the motion for relief from the automatic stay of DLJ Mortgage Capital, Inc. ("DLJ Mortgage") as follows:

1. Debtor filed a Chapter 13 petition with this Court on July 19, 2014.
2. DLJ Mortgage's motion alleges that Debtor is in default and has failed to comply with the terms of the Note and Mortgage by failing to make timely post-petition mortgage payments for the months of August 2014 through November 2014.
3. The Debtor's Chapter 13 Plan provides that the Debtor will seek to enter into Loss Mitigation with DLJ Mortgage. In fact, the Debtor submitted a Loss Mitigation Request on November 12, 2014.
4. This Court subsequently issued a Loss Mitigation Order with respect to the parties on December 31, 2014. This Order was properly served on counsel to the secured creditor on January 2, 2015.
5. On or about December 22, 2014, an Interim Order directing Trustee to withhold payment was executed by the Hon. Diane Davis, United States Bankruptcy Judge. This Order provides that the Debtor shall pay to the Chapter 13 Trustee \$813 per month commencing January 1, 2015, of which \$555 is Debtor's proposed modified mortgage payment. The Chapter 13 Trustee is further directed to hold and not disburse these funds to the secured creditor. Upon information and belief, the Debtor has complied with the above Order.
6. Additionally, prior to the Court's Order, as directed, the Debtor submitted monthly mortgage payments to the Chapter 13 Trustee pending the finalization of Loss Mitigation. Annexed hereto as Exhibit "a" is a copy of the Chapter 13

Trustee's Receipts for the Debtor as reflected on the Chapter 13 Trustee's website.

7. Debtor also objects to an award of attorney's fees and costs in excess of \$426 in connection with a motion for relief from the automatic stay by default. If the matter is settled conditionally, Debtor objects to an award of fees and costs in excess of \$526.

WHEREFORE, Debtor respectfully request an Order denying DLJ Mortgage Capital, Inc.'s motion for relief from the automatic stay and for such other and further relief as to the Court seems just and proper.

Dated: January 8, 2015

/s/ Richard Croak
Richard Croak, Esq.
Attorney for Debtors
314 Great Oaks Blvd.
Albany, New York 12203
(518) 690-4410
(Fax) (518) 690-4435
rcroak@richardcroak.com

EXHIBIT A

| Date | Period | Transaction Type | Source | Check/MO# | Receipt | Refund | Batch |
|------------|---------|------------------|----------|-----------|---------|--------|----------|
| 1/2/2015 | 2015 2 | Receipt | PC | 523 | 258.00 | 0.00 | 00044726 |
| 12/16/2014 | 2015 1 | Receipt | MORTGAGE | 522 | 740.03 | 0.00 | 00044602 |
| 11/21/2014 | 2014 12 | Receipt | PC | 127 | 258.00 | 0.00 | 00044195 |
| 11/17/2014 | 2014 12 | Receipt | PC | 521 | 740.03 | 0.00 | 00044157 |
| 11/3/2014 | 2014 11 | Receipt | PC | 520 | 258.00 | 0.00 | 00044009 |
| 10/14/2014 | 2014 11 | Receipt | MORTGAGE | 519 | 740.03 | 0.00 | 00043791 |
| 9/26/2014 | 2014 10 | Receipt | PC | 518 | 258.00 | 0.00 | 00043602 |
| 9/2/2014 | 2014 9 | Receipt | PC | 516 | 258.00 | 0.00 | 00043362 |

Transactions Amount

| | | |
|---------------------|---|----------|
| Cost Receipts | 8 | 3,510.09 |
| NSF Backout | 0 | 0.00 |
| No Cost Receipts | 0 | 0.00 |
| NSF No Cost Backout | 0 | 0.00 |
| Refunds To Debtor | 0 | 0.00 |
| Transfers In | 0 | 0.00 |
| Transfers Out | 0 | 0.00 |
| Net Receipts | 8 | 3,510.09 |